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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,836	12/07/2000	Sang In Kim	8733.325.00	8708

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EXAMINER

DUONG, THOI V

ART UNIT PAPER NUMBER

2871

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/730,836

Applicant(s)

KIM ET AL.

Examiner

Thoi V Duong

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 8-20 is/are rejected.
- 7) ☒ Claim(s) 3 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This office action is in response to the Amendment, Paper No. 6, filed on July 16, 2002.

Accordingly, claims 1-20 are currently pending in this application.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1, 2, 4-6, and 8-20 stand rejected under 35 U.S.C. 102(e) as being anticipated by Jeong-Hyun Kim et al. (USPN 6,038,008) for the same reasons set forth in the last office action.

#### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 2, 4-6 and 8-20 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10, 15-17 of U.S. Patent No. 6,038,008 for the same reasons set forth in the last office action.

***Allowable Subject Matter***

6. Claims 3 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

In addition to other elements as shown, none of the prior art of record suggests or discloses alone or in combination that the step of irradiating the organic passivation layer uses ultraviolet rays having wavelengths between about 100 to 200nm and produces a buffer thickness of 10Å to 50Å.

The most revelant reference, USPN 6,038,008 of Kim et al., fails to disclose or suggest the wavelengths between about 100 to 200nm and a buffer thickness of 10Å to 50Å. The Kim et al.'s reference only discloses a UV treating method using high-energy (low-wavelength) radiation on the organic passivation layer to create a roughened buffer layer for increasing adhesion to an ITO layer.

***Response to Arguments***

7. Applicant's arguments filed on July 16, 2002 have been fully considered but they are not persuasive.

Applicant argued that effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." With respect to claims 1, 2, 4-6 and 8-20, the Examiner disagrees with the Applicant's remarks because claims 1, 2, 4-6 and 8-20 are rejected under 35 U.S.C. 102(e), not under 35 U.S.C. 103. With respect to claims 3 and 7, the Examiner agrees with Applicant's remarks and indicates that these claims are allowable if rewritten in independent form as shown above.

Applicant also argued that the invention claims are not obvious over Kim et al. and Kim because they differ in scope from the claims of these two patents: claims 1-8 of the present application are drawn to a method of fabricating a liquid crystal display including a combination of elements, for example, irradiating the organic passivation layer with ultraviolet rays to form a hydrophilic buffer layer and claims 9-20 of the present application are drawn to a liquid crystal display including a combination of elements for example, a buffer layer over said passivation layer. Again, with respect to claims 1, 2, 4-6 and 8-20 of the present invention, the Examiner disagrees with the Applicant's remarks since Kim et al. also discloses a similar method of fabricating a liquid crystal display including a combination of elements, for example, irradiating the organic passivation layer with ultraviolet rays to form a hydrophilic buffer layer (col. 7, lines 8-49). Finally, claims 1, 2, 4-6 and 8-20 of the present invention are rejected under the judicially created doctrine of obviousness-type double patenting as being

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unpatentable over claims 1-10, 15-17 of USPN 6,038,008 of Kim et al. as described above.

**Conclusion**

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thoi V. Duong whose telephone number is (703) 308-3171. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

Thoi Duong



10/12/2002



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